IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No. 6996 of 2006
Date of decision : 6-11-2006

Harmesh Singh … Petitioner

Versus

The Presiding Officer,Ludhiana,
& another … Respondents

CORAM:- HON'BLE MR. JUSTICE J.S.NARANG
HON'BLE MR. JUSTICE ARVIND KUMAR

Present: Mr. B.N.Sehgal, Advocate,
for the petitioner

Ms. Monika Goyal, Advocate,
for respondent No.2.

…

ARVIND KUMAR,J:

Petitioner-workman was appointed as Helper on 22.7.1992 by respondent No.2 on daily wage basis. Later, on 12.6.1997, his services were terminated. Feeling aggrieved with his termination, the workman served a demand notice upon the department seeking reinstatement with continuity of service and back-wages. On failure of the reconciliation proceedings, the appropriate Government referred the dispute to the Labour Court for adjudication. The workman filed his claim statement before the Labour Court taking the plea that his services have been terminated illegally on 12.6.1997 without service of any notice or payment of any retrenchment compensation, and that juniors to him in the same category were retained in service and other workers were appointed after his termination. Upon notice of the claim statement, the department denied the averments made in the claim statement.

The parties led their respective evidence on the issues so framed by the Labour Court.

On appreciation of oral as well as documentary evidence adduced by the parties, the learned Labour Court vide award dated 14.12.2005 (Annexure P/13) dismissed the claim statement.

Now through the present writ petition, the petitioner-workman has sought the issuance of a writ in the nature of Certiorari for quashing award dated 14.12.2005, Annexure P/-13, and further a writ of Mandamus directing respondent No.2 to reinstate him with continuity of service and full back-wages.

Upon notice of motion, respondent No.2-department has filed written statement denying the averments made in the writ petition and praying for dismissal of the writ petition.

We have heard the learned counsel for the parties.

Petitioner-workman apart from alleging violation of Section 25 of the Industrial Disputes Act,1947 (in short, the Act) has also alleged violation of Section 25-G and 25-H of the Act on the ground that some junior workmen had been retained in service and some other workmen in the same category were appointed after the termination of his services. Learned counsel for the petitioner-workman has referred to the statement of management witness, namely, MW-1 Om Parkash Gupta who admitted in cross-examination that after 12.6.1997 the daily-wagers were employed, as per availability of work, to contend that the Labour Court has not dealt this issue in the impugned award. So much so, it has also been pointed out that there is a clear cut stand of the petitioner-workman that in order to deprive him from continuity of service though he had worked and was paid accordingly but a fictitious name of one Sukhdev Singh was recorded in the muster-roll of some of the months which amounts to unfair labour practice but the same has also not been dealt with by the Labour Court. When it was put to the learned counsel for the management, she could not rebut the averments made by the learned counsel for petitioner-workman. We are of the view that the Labour Court was required to lift the veil in order to separate the chaff from the grains. The learned Labour Court has,thus, not adequately dealt with the specific pleas so raised by the petitioner-workman. Therefore, the case deserves to be remitted back to the Labour

Court for de-novo trial.

In view of the discussion above, the writ petition is allowed and impugned award set aside. The case stands remitted back to the Labour Court, Ludhiana, for de-novo trial on merits according to law.

It shall be appreciated if the learned Labour Court decides the matter expeditiously, preferably within six months from the date of appearance of the parties before it.

Parties through their counsel are directed to appear before the Labour Court, Ludhiana, on 11.12.2006.

Nothing expressed herein shall be construed to be an expression of opinion on merits of the case.

(ARVIND KUMAR)
JUDGE

(J. S. NARANG)
JUDGE

November 6, 2006
JS